

1 KAMALA D. HARRIS  
Attorney General of California  
2 GLORIA A. BARRIOS  
Supervising Deputy Attorney General  
3 MICHAEL BROWN  
Deputy Attorney General  
4 State Bar No. 231237  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 897-2095  
6 Facsimile: (213) 897-2804  
E-mail: MichaelB.Brown@doj.ca.gov  
7 *Attorneys for Complainant*

**FILED**

Board of Vocational Nursing  
and Psychiatric Technicians

8 **BEFORE THE**  
9 **BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. VN-2006-2167

12 **MARY A. TERCERO AKA MARY A.**  
13 **GALAN**  
14 **15008 Campus Park Drive, Apt. D**  
**Moorpark, CA 93021**  
**Vocational Nurse License No. VN 222745**

**A C C U S A T I O N**

15 Respondent.

16  
17 Complainant alleges:

18 **PARTIES**

19 1. Teresa Bello-Jones, J.D., M.S.N., R.N. (Complainant) brings this Accusation solely in  
20 her official capacity as the Executive Officer of the Board of Vocational Nursing and Psychiatric  
21 Technicians, Department of Consumer Affairs.

22 2. On or about September 13, 2006, the Board of Vocational Nursing and Psychiatric  
23 Technicians issued Vocational Nurse License Number VN 222745 to Mary A. Tercero aka Mary  
24 A. Galan (Respondent). The Vocational Nurse License expired on January 31, 2010, and has not  
25 been renewed.

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1 **JURISDICTION**

2 3. This Accusation is brought before the Board of Vocational Nursing and Psychiatric  
3 Technicians (Board), Department of Consumer Affairs, under the authority of the following laws.  
4 All section references are to the Business and Professions Code unless otherwise indicated.

5 4. Section 2762 of the Code states, in pertinent part:

6 "In addition to other acts constituting unprofessional conduct within the meaning of this  
7 chapter it is unprofessional conduct for a person licensed under this chapter to do any of the  
8 following:

9 (a) Obtain or possess in violation of law, or prescribe, or except as directed by a  
10 licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or  
11 administer to another, any controlled substance as defined in Division 10 (commencing with  
12 Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as  
13 defined in Section 4022.

14 (b) Use any controlled substance as defined in Division 10 (commencing with Section  
15 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in  
16 Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to  
17 himself or herself, any other person, or the public or to the extent that such use impairs his or her  
18 ability to conduct with safety to the public the practice authorized by his or her license.

19 ...

20 (e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in  
21 any hospital, patient, or other record pertaining to the substances described in subdivision (a) of  
22 this section.

23 5. Section 2875 of the Business and Professions Code ("Code") provides, in pertinent  
24 part, that the Board of Vocational Nursing and Psychiatric Technicians ("Board") may discipline  
25 the holder of a vocational nurse license for any reason provided in Article 3 (commencing with  
26 section 2875) of the Vocational Nursing Practice Act.

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1           6.     Section 2878 of the Code states:

2           "The Board may suspend or revoke a license issued under this chapter [the Vocational  
3     Nursing Practice Act (Bus. & Prof. Code, 2840, et seq.)] for any of the following:

4           "(a) Unprofessional conduct, which includes, but is not limited to, the following:

5           (1) Incompetence, or gross negligence in carrying out usual nursing functions.

6     ...

7           "(j) The commission of any act involving dishonesty, when that action is related to the  
8     duties and functions of the licensee.

9           7.     Section 2878.5 of the Code states:

10          "In addition to other acts constituting unprofessional conduct within the meaning of this  
11     chapter [the Vocational Nursing Practice Act] it is unprofessional conduct for a person licensed  
12     under this chapter to do any of the following:

13     ...

14          "(e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any  
15     hospital, patient, or other record pertaining to narcotics or dangerous drugs as specified in  
16     subdivision (b)."

17          7.     Code section 4060 states, in pertinent part:

18          No person shall possess any controlled substance, except that furnished to a person upon the  
19     prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor  
20     pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified nurse-  
21     midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, a physician  
22     assistant pursuant to Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a  
23     pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph  
24     (A) of paragraph (5) of, subdivision (a) of Section 4052 . . .

25          8.     Health & Safety Code section 11173(a), states that no person shall obtain or attempt  
26     to obtain controlled substances, or procure or attempt to procure the administration of or  
27     prescription for controlled substances, (1) by fraud, deceit, misrepresentation, or subterfuge.

28     ///

9. Section 118, subdivision (b), of the Code provides that the suspension/expiration/surrender/cancellation of a license shall not deprive the Board/Registrar/Director of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

10. Section 125.3 of the Code provides, in pertinent part, that the Board/Registrar/Director may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

## CONTROLLED SUBSTANCES AT ISSUE

11. “Percocet” is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (b)(1)(N). Percocet is a brand name for Oxycodone. It is a narcotic used for the relief of moderate to moderately severe pain.

12. "Oxycontin" is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (b)(1)(M). Oxycontin is a brand name for Oxycodone. It is a narcotic used for the relief of moderate to severe pain.

13. "Darvocet" is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (c)(2). Darvocet is a brand name for Propoxyphene. It is a mild narcotic used for the relief of mild or moderate pain.

14. “Roxicodone” is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (b)(1)(N). Roxicodone is also a brand name for Oxycodone. It is a narcotic used for the relief of moderate to moderately severe pain.

### FIRST CAUSE FOR DISCIPLINE

(Obtained, Possessed and Self-Administered Controlled Substances)

15. Respondent is subject to disciplinary action under section 2878, subdivision (a)(1), on the grounds of unprofessional conduct, as defined in Code section 2878.5, subdivision (a) and 2762, subdivision (a)(b), in that between May 2, 2007 to May 3, 2007, while on duty at Santa Barbara Rehabilitation Institute (SRBI; a residential skilled nursing care facility currently owned

1 and operated by Cottage Hospital under the current name "Cottage Rehabilitation Hospital),  
2 registry/non-staff Licensed Vocational Nurse (LVN), Respondent committed the following acts:

3 a. Respondent obtained Percocet, Darvocet and Roxicodone, controlled substances, by  
4 fraud, deceit, or subterfuge by diverting the drug from hospital supplies in violation of Health and  
5 Safety Code section 11173, subdivision (a).

6 b. Respondent possessed Percocet, Darvocet and Roxicodone, controlled substances, in  
7 violation of Code section 4060.

8 c. Respondent self-administered Percocet, Darvocet and Roxicodone, controlled  
9 substances.

## 10 SECOND CAUSE FOR DISCIPLINE

### 11 (Falsify Patient and/or Hospital Records)

12 16. Respondent has also subjected her vocational nurse license to discipline under Code  
13 2878, subdivision (a)(1), for unprofessional conduct, as defined by Code section 2878.5,  
14 subdivision (e), and 2762, subdivision (e) in that between May 2, 2007 to May 3, 2007, while on  
15 duty as a licensed vocational nurse at SRBI, Respondent falsified or made the following grossly  
16 incorrect, inconsistent, or intelligible entries in the patient and/or hospital record of:

17 a. **Patient No. M1308939.** Respondent withdrew 100 mg. of Darvocet, a controlled  
18 substance, for Patient M1308939; however, Respondent failed to chart the administration or  
19 wastage of any portion of the Darvocet in the patient's medication administration record or nurse  
20 notes, or otherwise account for the disposition of the Darvocet in any hospital record.

21 b. **Patient No. M130860.** Respondent withdrew 10 mg. of Percocet, a controlled  
22 substance and 70 mg. of Oxycontin, a controlled substance, for Patient M130860; however,  
23 Respondent failed to chart the administration or wastage of any portion of the Percocet and  
24 Oxycontin in the patient's medication administration record or nurse notes, or otherwise account  
25 for the disposition of the Percocet and Oxycontin in any hospital record.

26 c. **Patient No. M130865.** Respondent withdrew 15 mg. of Roxicodone, a controlled  
27 substance and 40 mg. of Oxycontin, a controlled substance, for Patient M130865; however,  
28 Respondent failed to chart the administration or wastage of any portion of the Roxicodone and

1 Oxycontin in the patient's medication administration record or nurse notes, or otherwise account  
2 for the disposition of the Roxicodone and Oxycontin in any hospital record.

3 **THIRD CAUSE FOR DISCIPLINE**

4 **(Dishonest Acts)**

5 17. Respondent has also subjected her vocational nurse license to discipline under Code  
6 section 2878, subdivision (j), in that between May 2, 2007 to May 3, 2007, Respondent  
7 committed acts involving dishonesty as set forth in paragraph 15 and 16 above.

8 **PRAYER**


9 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
10 and that following the hearing, the Board of Vocational Nursing and Psychiatric Technicians  
11 issue a decision:

12 1. Revoking or suspending Vocational Nurse License Number VN 222745, issued to  
13 Mary Angela Tercero, aka Mary Dolores Tercero, aka Mary Angela Galan;

14 2. Ordering Mary Angela Tercero to pay the Board of Vocational Nursing and  
15 Psychiatric Technicians the reasonable costs of the investigation and enforcement of this case,  
16 pursuant to Business and Professions Code section 125.3; and

17 3. Taking such other and further action as deemed necessary and proper.

18  
19  
20 DATED: May 24, 2011.

21   
22 TERESA BELLO-JONES, J.D., M.S.N., R.N.  
23 Executive Officer  
24 Board of Vocational Nursing and Psychiatric Technicians  
Department of Consumer Affairs  
State of California  
Complainant

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